

STATE BOARD OF PHARMACY
STATE OF MISSOURI

MISSOURI BOARD OF PHARMACY,)	
)	
Petitioner,)	
)	
v.)	Case No. 08-1827 PH
)	
JEFFERSON J. MCINTIRE,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

This matter appears before the Missouri Board of Pharmacy pursuant to a Consent Order issued by the Administrative Hearing Commission as a result of a Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearings Before The Administrative Hearing Commission and Consent Order, which Motion and Order were admitted into evidence as Board's Exhibits E and F. See transcript page 15. Also admitted into evidence were Board's Exhibits A, B, C, and D. See transcript page 15. Each Board member participating in this decision read each exhibit and considered each exhibit in reaching the decision reflected in this Order. See transcript pages 8 and 9.

Findings of Fact

1. The Board set this matter for hearing and served notice of the disciplinary hearing upon Respondent.
2. Pursuant to notice and Section 621.110, RSMo, this Board held a hearing on April 29, 2009, at the Courtyard by Marriott, 3301 LeMone Industrial Boulevard Columbia, Missouri, for the purpose of determining the appropriate disciplinary action against the pharmacist license of Respondent. Jefferson McIntire did not appear, although given notice of such hearing. Yvonne McIntire, court-appointed guardian for Jefferson McIntire, did appear and presented evidence and argument on behalf of

Jefferson McIntire. The Board was represented by Edwin Frownfelter. See transcript page 6.

3. All Board members were present throughout the disciplinary hearing.

4. The Missouri Board of Pharmacy ("Board") is an agency of the state of Missouri created and established pursuant to Section 338.110, RSMo 2000, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

5. Respondent is licensed by the Board, License No. 042760, which license was current and active at the time of the incidents which form the basis of the charge, but whose license, according to the Joint Motion, expired on October 31, 2008. See Joint Motion page 2. An examination of the Board's records revealed that Mr. McIntire's license was renewed on or about October 14, 2008, and is in an inactive status.

6. The Consent Order issued by the Administrative Hearing Commission as a result of a Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearings Before the Administrative Hearing Commission and Order had certain provisions regarding the facts that the parties agreed give cause to discipline the license of the Respondent, among the following.

"... is unable by reason of paranoid schizophrenia to receive and evaluate information or to communicate decisions to such an extent that respondent lacks capacity to meet essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur. Respondent is also unable as a result of the above described conditions to receive and evaluate information to communicate decisions to such an extent that respondent lacks ability to manage his financial resources. That respondent, by reason of the conditions described above [sic], is unable to meet respondent's essential daily needs of living and/or manage his financial resources without supervision and there are no less intrusive alternatives to guardianship and/or conservatorship available to provide for respondent's care and financial needs.

See Joint Motion page 3.

7. As a result of the Joint Stipulation quoted in paragraph 6, Commissioner Daniel P. Wheeler, Commissioner of the Circuit Court of Jackson County, found that:

"(1) 'Respondent is totally incapacitated and totally disabled by reason of respondent's medical condition and is unable to care for self and financial resources;'

(2) 'Respondent is totally incapacitated and totally disabled as defined in Section 475.010 RSMo and is, therefore, legally disabled, without exception, as provided by Section 475.078.2 RSMo.'

(3) Yvonne McIntire was appointed guardian of the person and conservator of the estate of the Respondent."

8. Circuit Court Kathleen A. Forsyth, Circuit Judge of Circuit Court of Jackson County affirmed Commissioner's Wheeler's adjudication on September 17, 2007, and that decision was not appealed.

9. Yvonne McIntire testified that Jefferson McIntire is not currently working, is taking medication to address his schizophrenia, continues to improve and is hopeful that in the future he might be able to go back to work, his doctor believes that at some time in the future he might be able to work, with no identification of what kind of work, and that Mr. McIntire has not attended any kind of programs related to the practice of pharmacy. See transcript pages 13, 17, 18, and 19.

Conclusions of Law

10. The Board has jurisdiction over this proceeding in that the parties have agreed that the Board has cause to discipline the license of the Respondent. State Board of Registration for the Healing Arts v. Masters, 512 S.W.2d 150, 160-161 (Mo. App., K.C.D. 1974).

11. The Board has jurisdiction to take disciplinary action against Respondent in that the parties have agreed that such action may be taken.

12. Respondent's license to practice as a pharmacist, numbered 042760, is subject to revocation, suspension, probation, or censure by the Board pursuant to the provisions of Section 338.055.2(9), RSMo Supp. 2008.

Disciplinary Order

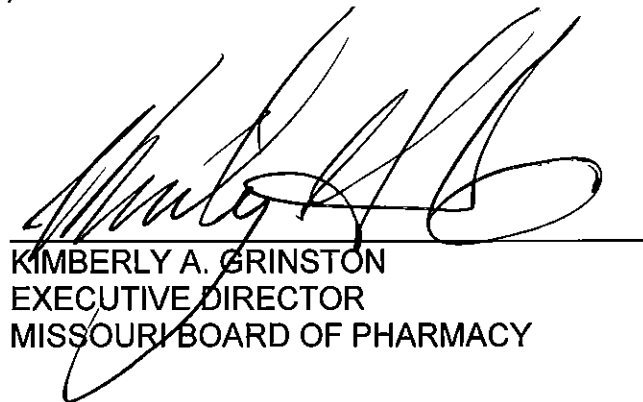
THEREFORE, having considered all of the evidence before this body, and giving full weight to the Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearing Before the Administrative Hearing Commission and Order, as well as the Administrative Hearing Commission's Consent Order dated March 3, 2009, presented to the Board, it is the ORDER of the Missouri Board of

Pharmacy that the pharmacist license issued to McIntire, numbered 042760, shall be REVOKED. Respondent may not reapply for licensure for seven (7) years from the date of this Order. Such application shall comply with the provisions of Section 338.067, RSMo. Respondent shall return all indicia of licensure, including the 5" X 7" computer-generated license, wallet card, and original wall-hanging certificate to the Missouri Board of Pharmacy within ten (10) days of the date of this Order.

The Missouri Board of Pharmacy will maintain this Order as an open record of the Board as provided in Chapters 338, 610, 324, RSMo.

ENTERED THIS 15th DAY OF JUNE, 2009

(BOARD SEAL)



KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR
MISSOURI BOARD OF PHARMACY